IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 19474 of 2004(R)

AGAINST THE ORDER IN EP.415/03 IN
OS.126/2002 of II ADDL.M.C.,NEYYATTINKARA

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PETITIONER:

V. KRISHNANKUTTY, S/O. LATE VELAYUDHAN
NADAR, AGED 49, K.N. NIVAS, KIZHAKKEPULICKA
VILAKAM, THIRUPURATHOOR DESOM,
THIRUPURAM VILLAGE, NEYYATTINKARA TALUK.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENTS:

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1. SMT.CHELLAMMA, W/O. LATE K.GANGADHARAN
NADAR, AGED 77, LEKSHMIVILAKATHU PUTHEN VEEDU,
NELLILVILA, NELLIVILA P.O., VENNIYOOR DESOM,
VENGANOOR VILLAGE, THIRUVANANTHAPURAM TALUK.

2. G. SUGATHAN, AGED ABOUT 29,
S/O. LATE K. GANGADHARAN NADAR,
RES. AT DO. DO.

3. G. MANIKANTAN, AGED ABOUT 35,
S/O. DO. DO. RES. AT DO. DO.

4. C. USHA, W/O. N. SATHYADAS,
D/O. DO. DO. AGED 37, THAZHANINNA THERIVILA,
THIRUPURAM DESOM, POOVAR P.O.,
THIRUPURAM VILLAGE.

5. N. SATHYADAS, H/O. C. USHA, AGED 55,
RES. AT DO. DO.

6. C. VASANTHA, W/O. KARUNAKARAN NADAR,
D/O. LATE K. GANGADHARAN NADAR, AGED 55,
RES. AT LEKSHMI VILAKATHU PUTHEN VEEDU,
NELLIVILA, NELLIVILA P.O., VENNIYOOR DESOM,
VENGANOOR VILLAGE, THIRUVANANTHAPURAM TALUK.

7. C. RADHA, W/O. JOHNSON,
D/O. DO. DO. AGED ABOUT 53, RES. AT
NELLIVIAL, NELLIVILA P.O., VENNIYOOR DESOM,
VENNIYOOR DESOM, VENGANOOR VILLAGE,
THIRUVANANTHAPURAM TALUK.

8. C. JALAJA @ AZHAKAMMA, W/O. LAKSHMANAN,
D/O. DO. DO. AGED ABOUT 41,
RES. AT DO. DO.

9. C. VASANTHI, W/O. MANIAN,
AGED ABOUT 39, D/O. DO. DO. RES. AT DO. DO.

10. C. NIRMALA, AGED 46, D/O. SMT.CHELLAMMA
& LATE K. GANGADHARAN NADAR, K.N. NIVAS, KOZHAKKE
PULICKAVILAKAM, THIRUPURATHOOR DESOM,
THIRUPURAM VILLAGE, NEYYATTINKARA TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 19474/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF JUDGMENT DATED 7.4.2002 IN O.S. NO.126/2002 ON THE FILEOF THE MUNSIFF'S COURT NEYYATTINKARA.

EXT.P2: COPY OF the E.P. NO.415/2003 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT NEYYATTINKARA.

EXT.P3: COPY OF THE APPLICATION IN E.A. NO.349/2004 IN O.S. NO.126/2002 DATED 25.5.2004

EXT.P4: COPY OF the ORDER DATED14.6.2004 IN E.A. NO.349/2004 ON THE FILES OF THE MUNSIFF'S COURT – II NEYYATTINKARA.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 19474 of 2004

Dated this the 14th day of June 2007

JUDGMENT

This writ petition is remaining defective since 2004. The petitioner is the holder of a decree for mandatory injunction for evicting the 11th judgment debtor, who is the petitioner's ex-wife. The prayer in the Execution Petition was that the I.G. of Police be directed to render police assistance in the matter of compelling the 11th defendant to vacate from the premises. The learned Munsiff by Ext.P4 order declined to render assistance of the police in the matter of compelling the 11th judgment debtor to vacate the premises.

2. Having gone through Ext.P4, it cannot be said that the said order is wholly unreasonable so as to warrant immediate correction under supervisory jurisdiction of this court. The petitioner is not entitled to get assistance of the police in the first instance itself. The petitioner should in the first instance try to evict the 11th respondent through an amin to be deputed by the

court and failing that only he would seek police protection on the basis of the report of the Amin. In this view of the matter, the challenge against Ext.P4 fails. The writ petition is dismissed. However, it is made clear that this does not mean that the Execution Court is not under obligation to ensure that the petitioner decree holder secures the fruits of the decree which has become final.

PIUS C. KURIAKOSE,
JUDGE.

dpk